PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant: John B. Amundson et al. Confirmation No.: 3578
Serial No. 10/725,826 Examiner: Charles R. Kasenge
Filing Date: December 2, 2003 Group Art Unit: 2125
For: CONTROLLER INTERFACE WITH SEPARATE SCHEDULE REVIEW MODE
Docket: H0005444-1161.1140101

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
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Lynn Thompson November 13, 2007
Lynn Thompson Date

Pursuant to 37 C.F.R. § 41.37, Appellants hereby submit this Appeal Brief in furtherance of the Notice of Appeal filed on August 22, 2007 and of the Notice of Panel Decision from Pre-Appeal Review dated October 10, 2007. Appellants authorize the fee prescribed by 37 C.F.R. § 41.20(b)(2) in the amount of $510.00 to be charged to Deposit Account No. 50-0413. Permission is hereby granted to charge or credit Deposit Account No. 50-0413 for any errors in fee calculation.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of record, Honeywell International Inc., a corporation organized and existing under and by virtue of the laws of Delaware, and having its principal offices at 101 Columbia Road, Morristown, New Jersey 07962, USA. An assignment from the inventors, John B. Amundson, Gabriel A. Bergman, and Brent D. Vick, conveying all right, title and interest in the invention to Honeywell International Inc., has been recorded at Reel 014762, Frame 0416.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-33 and 38-40 stand finally rejected under 35 U.S.C. §102(e) as being anticipated by Ehlers et al. (U.S. Patent No. 7,130,719). Claims 34-37 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehlers et al. in view of Smith et al. (U.S. Patent No. 6,192,282). All pending claims, namely claims 1-40, are being appealed.

IV. STATUS OF AMENDMENTS

An Amendment-After-Final was filed on June 22, 2007, containing only Remarks. The Advisory Action mailed August 8, 2007 does not indicate whether the June 22, 2007 Amendment-After-Final will be entered for purposes of appeal. Since the June 22, 2007 Amendment-After-Final made no amendments to the claims or specification, Appellant assumes that the June 22, 2007 Amendment-After-Final has been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER[1]

The invention relates generally to programmable controllers for homes and/or buildings and their related grounds. More specifically, the present invention relates to controller interfaces

[1] The references to the specification and drawings provided herein are only illustrative and not limiting in any way.

for such controllers that have separate schedule review and schedule editing modes, as well as methods in which a user may access and view the schedule parameters of the controller without risk or fear of accidental schedule modification.

This fear can be a significant barrier for the proper use of such controllers, and may limit the energy savings or other advantages that such controllers are often designed to offer. For example, and without a separate schedule review mode, some users fear making inadvertent changes or canceling the schedule altogether by pressing the wrong button on the interface. In some cases, the user may be concerned with interfering with the normal operation of the controller, or with modifying other controller settings. By providing a separate schedule review mode, the user may comfortably display the current scheduling parameters without the risk or fear of accidental schedule modification (see, for example, specification at page 2, line 22 through page 3, line 7).

Turning now to the claims, where independent claim 1 recites a method of accessing a schedule on a controller coupled to a user interface and initiating a schedule review mode within the controller, where the schedule review mode permits viewing access only and does not permit editing access to at least one schedule parameter in the schedule (see, for example, specification at page 5, lines 17-22, page 6, line 21 through page 7, line 11; page 10 line 19 through page 11, line 1; page 13, lines 6-14; Figures 1-4, reference numerals 14, 52, 60, respectively; Figures 6A, reference numeral 90). While in the schedule review mode, the method includes the step of manually selecting via the user interface one or more schedule parameters (see, for example, specification at page 7, lines 12-20; page 13, line 7 through page 15, line 22; Figures 6B-6E, reference numerals 98, 102, 104, 106 and 108). In response to the manually selecting step, the method also includes the steps of displaying the one or more manually selected schedule parameters via the user interface. The method further includes the step of exiting the schedule review mode (see, for example, specification at page 7, lines 12-20; page 13, line 7 through page 15, line 22; Figures 6B-6E, reference numerals 98, 102, 104, 106 and 108).

Dependent claim 2 recites the method of claim 1, further comprising the steps of initiating an editing mode within the controller (see, for example, specification at page 8, lines 1-

20), and while in the editing mode, modifying at least one schedule parameter of the schedule (see, for example, specification at page 8, lines 21-23), where the schedule review mode must be exited before the editing mode is initiated (see, for example, specification at page 7, lines 2-4; page 11, lines 1-4 and 10-13; page 15, line 18 through page 16, line 2; page 21, lines 18-23).

Independent claim 13 recites a method of accessing and programming a schedule on a controller (see, for example, Figure 6A, reference numeral 64) equipped with a user interface (see, for example, specification at page 12, lines 3-7; Figure 6A, reference numeral 68), the schedule having one or more programmable schedule parameters (see, for example, specification at page 12, lines 12-17; Figure 6A, reference numerals 72, 74, 76, 78, 80), the method including the step of providing a scheduling routine within the controller (see, for example, specification at page 12, lines 17-19; page 13, lines 6-8), the scheduling routine including a schedule review mode separate from an editing mode (see, for example, specification at page 15, line 18 through page 16, line 2; Figures 6B-6F). The method further includes the step of initiating the schedule review mode within the controller (see, for example, specification at page 13, line 15 through page 14, line 17), wherein while in the schedule review mode, a user is not permitted to make changes via the user interface to at least some of the schedule parameters (see, for example, specification at page 15, line 18 through page 16, line 2). While in the schedule review mode, the method allows the user to select and view a desired schedule parameter via the user interface (see, for example, specification at page 13, line 6 through page 15, line 22). The method further includes the steps of initiating the editing mode within the controller (see, for example, specification at page 16, lines 1-2), modifying at least one schedule parameter in the schedule (see, for example, specification at page 16, line 1 through page 18, line 20; Figures 6G-6M generally), and exiting the scheduling routine (see, for example, specification at page 19, lines 9-18; Figures 6M-N generally).

Dependent claim 14 recites the method of claim 14, further comprising the step of exiting the schedule review mode prior to the step of initiating the editing mode (see, for example, specification at page 7, lines 2-4; page 11, lines 1-4 and 10-13; page 15, line 18 through page 16, line 2; page 21, lines 18-23).

Independent claim 25 recites a programmable controller (see, for example, Figure 6A, reference numeral 64) for use in controlling a system, the controller comprising a user interface (see, for example, specification at page 12, lines 3-7; Figure 6A, reference numeral 68), and a processor configured to run a scheduling routine for modifying a schedule (see, for example, specification at page 9, lines 13-16; page 10, lines 10-14), the scheduling routine including a schedule review mode and a separate editing mode (see, for example, specification at page 9, lines 12-13). The schedule review mode is configured to permit a user to manually select and display one or more selected schedule parameters via the user interface and to not permit the user to modify at least one of the one or more selected schedule parameters without first initiating the editing mode (see, for example, specification at page 5, lines 17-22, page 6, line 21 through page 7, line 11; page 10, line 19 through page 11, line 1; page 13, lines 6-14; Figures 1-4, reference numerals 14, 52, 60, respectively; Figures 6A, reference numeral 90).

Dependent claim 26 recites the controller of claim 25, where the schedule review mode is initiated before the editing mode, and the schedule review mode must be exited prior to initiating the editing mode (see, for example, specification at page 7, lines 2-4; page 11, lines 1-4 and 10-13; page 15, line 18 through page 16, line 2; page 21, lines 18-23).

Dependent claims 34-37 recite the controller of claim 25, where the system is a security system, a lighting system, a sprinkler or drip water system, or an A/V system (see, for example, specification at page 5, lines 8-13).

Independent claim 39 recites a programmable controller (see, for example, Figure 6A, reference numeral 64) for use in controlling a system, the controller including a user interface (see, for example, specification at page 12, lines 3-7; Figure 6A, reference numeral 68), and a processor configured to run a scheduling routine for modifying a schedule (see, for example, specification at page 2, lines 14-22). The scheduling routine includes a schedule review mode and a separate editing mode (see, for example, specification at page 7, line 20 through page 8, line 2). The schedule review mode is configured such that when in the schedule review mode, a user is permitted to manually select and view one or more schedule parameters of interest but is not permitted to modify the selected and viewed schedule parameters (see, for example,

specification at page 7, lines 2-4; page 11, lines 1-4 and 10-13; page 15, line 18 through page 16, line 2; page 21, lines 18-23).

Independent claim 40 recites a computer readable medium having stored thereon a computer program (see, for example, specification at page 6, lines 18-20; page 10, lines 20-23) that when executed by a controller performs the steps of initiating a schedule review mode within a controller, wherein the schedule review mode permits a user to manually select and view one or more schedule parameters of interest but does not permit a user to modify the selected and viewed schedule parameter(s) without first exiting the schedule review mode and entering an editing mode, and exiting the schedule review mode (see, for example, specification at page 6, line 15 through page 7, line 6).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-33 and 38-40 are unpatentable under 35 U.S.C. §102(e) over Ehlers et al. (U.S. Patent No. 7,130,719).

2. Whether claims 34-37 are unpatentable under 35 U.S.C. §103(a) over Ehlers et al. (U.S. Patent No. 7,130,719) in view of Smith (U.S. Patent No. 6,192,282).

VII. ARGUMENT

A. Claims 1-33 and 38-40 are patentable under 35 U.S.C. §102(e) over Ehlers et al. (U.S. Patent No. 7,130,719).

i. The Examiner's interpretation of Ehlers et al. is Unsupported

The Examiner asserts that Ehlers discloses a method of accessing a schedule on a controller including the steps of initiating a schedule review mode that permits viewing access only and not permitting editing access to at least one schedule parameter, citing column 11, lines 57-63 and column 15, lines 17-27 for support. The Examiner states that the "view heat/cool/auto mode" of Ehlers is being interpreted as the claimed schedule review mode, and the "change the heat/cool/auto mode" as the editing mode. The Examiner then asserts that since the "view mode" is separate from the "change mode", it is clear that the view mode provides viewing access only.

See page 3, lines 1-3 of the Final Office Action mailed April 24, 2007.

Appellants respectfully disagree. The Examiner has provided no support or reasoning for this interpretation, which is clearly not supported and is actually contrary to the disclosure of Ehlers et al. Ehlers et al. do not teach or suggest a view mode or change mode, or such modes as being separate. The Examiner relies on column 11, lines 57-63 of Ehlers et al., which recites:

> Using the user interface 1.14, the customer may directly access and control in-home devices 1.08. For example, with regard to the thermostat 1.30D, the customer may view current temperature, view current heating or cooling setpoint(s), override heating or cooling setpoint(s), resume scheduled heating or cooling setpoint(s), view heat/cool/auto mode, change the heat/cool/auto mode.

The Examiner appears to be interpreting this general language as somehow inherently teaching separate schedule review and editing modes in which, in the schedule review mode, the user is permitted viewing access only and not permitted editing access. The Examiner's assertion has no basis whatsoever in the above-cited passage of Ehlers et al. Instead, and as further detailed below, Ehlers et al. actually teach a system in which an interface is provided, wherein on one side of the interface certain parameters are displayed for viewing, and on the other side of the same interface buttons are provided for changing certain thermostat settings. This is made clear by the second passage of Ehlers et al. relied upon by the Examiner, which recites:

> All changes made at the thermostat 1.30D can be communicated to the gateway node 1.10D or be received during a poll of the thermostat 1.30D. In one embodiment, the following functions can be accessible directly from the thermostat 1.30D:
>
> View current temperature. *4.20 "67F"*
> View current heating or cooling setpoint. *4.20 "Heat: 58", "Cool: 85"*
> Override heating and cooling setpoints. *4.22C*
> Resume scheduled heating and cooling setpoints. *4.22E*
> View Heat/Cool/Auto mode. *4.20 "AUTO"*
> Change Heat/Cool/Auto mode. *4.22A*
> Activate/deactivate the fan. *4.22B*

(Emphasis added) (Ehlers et al., column 15, lines 17-28). Italicized and underlined reference numerals have also been added and refer to the thermostat shown in Figure 4C of Ehlers et al., which is reproduced below:

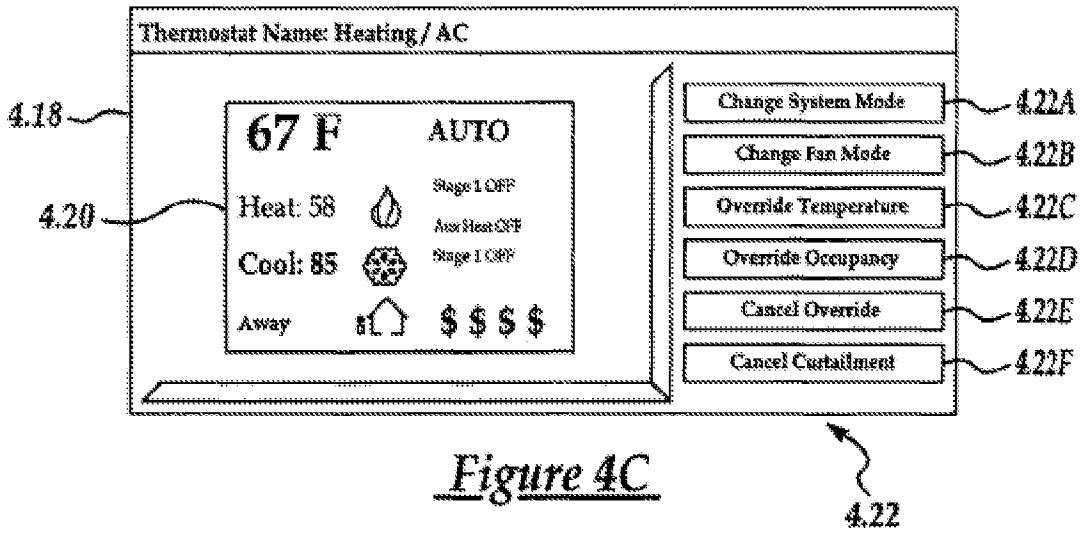

Figure 4C

As can readily be seen, the above-cited passage of Ehlers et al. clearly does not teach or suggest a schedule review mode permitting viewing access only, and not permitting editing access to at least one schedule parameter in the schedule. Instead, the cited passage of Ehlers et al., in combination with Figure 4C, clearly discloses an interface, wherein on the left side of the interface certain parameters are displayed for viewing, and on the right side of the interface numerous buttons are provided for changing certain thermostat settings.

The Examiner appears to be relying on three examples in the above-cited passage of Ehlers et al. for teaching the claimed "viewing mode", namely: "View current temperature. *4.20 '67F'*"; "View current heating or cooling setpoint. *4.20 'Heat: 58', 'Cool: 85'* "; and "View Heat/Cool/Auto mode. *4.20 'AUTO'*". All three of these examples correspond to parameters on the left part of the interface in Figure 4C, as shown above. Clearly, merely displaying information on a display (i.e. on the left half of the interface of Figure 4C of Ehlers et al.) cannot properly be interpreted as corresponding to a schedule review mode permitting viewing access only, and not permitting editing access to at least one schedule parameter in the schedule. The other examples in the above-cited passage of Ehlers et al. relate to changing certain settings, and thus relate to an editing function. These examples include "Override heating and cooling setpoints. *4.22C*", "Resume scheduled heating and cooling setpoints. *4.22E*", "Change Heat/Cool/Auto mode. *4.22A*", and "Activate/deactivate the fan. *4.22B*". All of these examples

correspond to buttons (4.22A, B, C and E) on the right half of the interface in Figure 4C of Ehlers et al. As such, the cited portions of Ehlers et al. clearly teach providing a thermostat that allows a user to simultaneously view (via the left part of the interface) and change certain thermostat settings (via the buttons on the right part of the interface). Certainly, this does not teach anything regarding separate viewing access and editing access modes.

Moreover, and with reference to FIG. 4C, Ehlers state at column 43, line 39 through column 44, line 2:

> selection of the heating/AC icon 4.16A, displays a virtual thermostat 4.18 within the control panel 4.10. The virtual thermostat 4.18 contains an information section or display 4.20 and a plurality of thermostat buttons 4.22. The display section 4.20 includes information related to the actual or real time conditions at the site 1.04. In the illustrated embodiment as shown, the current temperature within the customer site 1.04 is 67° Fahrenheit. The heating and cooling set points are set to 58° and 85°, respectively. The system 3.08 is in an automatic mode and the heating and cooling systems are in an off condition. Furthermore, as indicated, the occupancy mode is set to "Away". As discussed below, the system 3.08 allows the customer to program the HVAC systems use the virtual thermostat 4.18 and according to occupancy modes using heating and cooling set points. By using the thermostat buttons 4.22, the customer can change the current operating parameters of the thermostat. For example, selection of a change system mode thermostat button 4.22A allows the customer to select between automatic and manual modes. Selection of a change fan mode button 4.22B allows the customer to change the fan mode from "on" to "automatic". Furthermore, selection of an override temperature button 4.22C or an override occupancy button 4.22D allow the customer to override the current temperature and occupancy schedules as defined below. Selection of a cancel override button 4.22E allows the customer to cancel a temperature or occupancy change which was input using the override temperature button 4.22C or the override occupancy button 4.22D. A cancel curtailment button 4.22F allows a customer to cancel any curtailment program (where permissible).

(Emphasis added). As can be seen, the interface of Figure 4C of Ehlers et al. allows the user to both view the current system settings in the display section 4.20 (i.e. the left part of the interface), and simultaneously edit those settings by pressing one of the thermostat buttons 4.22, all while on the same interface and all the while in the same mode. Ehlers et al. provides no teaching or suggestion whatsoever of separate schedule review and schedule edit modes, and

does not teach or suggest that when in a schedule review mode, the user cannot also press one of the thermostat buttons 4.22 and edit a schedule. On the contrary, Ehlers et al. appears to teach just the opposite, and that the Ehlers et al. system would provide the user with the ability to review and edit thermostat settings from the same interface, as illustrated in Figure 4C. Thus, if anything, Ehlers et al. would teach the opposite of the specific method steps recited in the claims. The Examiner's interpretation of Ehlers et al. is clearly not supported by the actual disclosure of Ehlers et al.

ii. Claims 1 and 6-12

Claims 1 is rejected as being anticipated by Ehlers et al. (U.S. 7,130,719). The Examiner asserts that Ehlers discloses a method of accessing a schedule on a controller including the steps of initiating a schedule review mode that permits viewing access only and not permitting editing access to at least one schedule parameter, citing column 11, lines 57-63 and column 15, lines 17-27 for support. The Examiner states that the "view heat/cool/auto mode" of Ehlers is being interpreted as the claimed schedule review mode, and the "change the heat/cool/auto mode" as the editing mode. The Examiner then asserts that since the "view mode" is separate from the "change mode", it is clear that the view mode provides viewing access only. See page 3, lines 1-3 of the Final Office Action mailed April 24, 2007. Appellants respectfully disagree. As discussed above, the Examiner's interpretation of Ehlers et al. is clearly flawed and not supported by the actual disclosure of Ehlers et al.

Independent claim 1 recites specific method steps:

> 1. A method of accessing a schedule on a controller coupled to a user interface, comprising the steps of:
>
> initiating a schedule review mode within the controller, said schedule review mode permitting viewing access only and not permitting editing access to at least one schedule parameter in the schedule,
>
> while in the schedule review mode, manually selecting via the user interface one or more schedule parameters;
>
> in response to the manually selecting step, displaying the one or more manually selected schedule parameters via the user interface; and
>
> exiting the schedule review mode.

Ehlers et al. clearly do not teach or suggest such specific method steps. As discussed above, the

cited passages of Ehlers et al. (column 11, lines 57-63; column 15, lines 17-27) do not teach or suggest a method including steps of initiating a schedule review mode permitting viewing access only, while not permitting editing access to at least one schedule parameter in the schedule. Instead, the cited passages of Ehlers et al. merely show a user interface with various functions, but do not teach anything regarding when viewing access and editing access is granted to the user. In fact, and as detailed above, the cited passages of Ehlers et al. would appear to teach an interface (Figure 4C) that allows the user to view the current system settings and edit those settings without restriction.

In the Advisory Action mailed August 6, 2007, the Examiner asserts that the phrase "allows the customer to select" in Ehlers et al. implicitly means the user did not have the ability before, therefore a new mode is "initiated". Appellants do not understand this reasoning. Ehlers et al. clearly teach, in Figure 4C and the corresponding disclosure, that the user actually makes changes by simply touching one of the thermostat buttons 4.22A-4.22F. Thus, when at the interface shown in Figure 4C of Ehlers et al., the user has direct and ready access to both view settings (via the left part of the interface) and make whatever changes are desired by simply touching one of the corresponding thermostat buttons 4.22A-4.22F (via the right part of the same interface). Note, touching one of the thermostat buttons 4.22A-4.22F changes the corresponding setting, and the change would appear to be simultaneously displayed on the left part of the interface. In view of the foregoing, it is difficult to see how Figure 4C of Ehlers et al., and the corresponding disclosure, implicitly teaches a method in which a schedule review mode permits "viewing access only and not permitting editing access to at least one schedule parameter in the schedule", as recited in claim 1. The Examiner has provided no insight, reasoned statements, or factual basis for the asserted interpretation of the teachings of Ehlers et al.

MPEP 2131 states:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).
>
> ...

> "[t]he identical invention must be shown in as complete detail as is contained in the ... claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

Appellants submit that Ehlers et al. do not teach the identical invention in as complete detail as in the claims. Further, if the Examiner is considering that a separate review mode permitting viewing access only and not permitting editing access to at least one schedule parameter is inherent in Ehlers et al., Appellants submit that there is no basis for such an interpretation. MPEP 2112 IV. states:

> The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)
>
> ...
>
> "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

(Emphasis added). The burden of providing initial rational reasoning or evidence to show inherency is on the Examiner. In this case, the Examiner has failed to meet his burden. Appellants submit that the claimed method steps, including the steps of initiating a schedule review mode permitting viewing access only and not permitting editing access, are not necessarily present in Ehlers et al. The Examiner's assertion is not supported by the disclosure of Ehlers et al. Further, the Examiner has not provided any basis in fact, objective evidence, and/or

technical reasoning to support the assertion that the view mode of Ehlers et al. necessarily provides viewing access only, and does not provide editing access. As discussed above, Ehlers et al. appear to teach a system in which the user may review and edit thermostat settings from a single interface and without restriction.

It is possible that the Examiner is asserting that the claimed method steps could be performed by the system of Ehlers et al., which is not a proper basis for an anticipation rejection.

MPEP 2112.02 states:

> Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

(Emphasis added). Ehlers et al. provides no indication that in the normal and usual operation of their system, the claimed method steps would necessarily be performed. Further, as discussed above, the Examiner has not provided any reasoning to support the assertion that Ehlers et al. inherently and necessarily performs the claimed method steps. In fact, Ehlers et al. appear to teach just the opposite of the method steps as recited in claim 1.

In addition to the foregoing, the cited portions of Ehlers et al. do not appear teach a schedule review mode. FIG. 4C of Ehlers et al. shows an interface which permits the user to: change system mode (4.22A); change fan mode (4.22B); override temperature (4.22C); override occupancy (4.22D); cancel override (4.22E); and cancel curtailment (4.22F). None of these, however, would appear to correspond to schedule parameters of a schedule, as recited in claim 1. In view of the foregoing, Figure 4C of Ehlers et al. cannot be seen to teach each and every element in the same detail as is recited in the independent claims, as required under 35 U.S.C. § 102.

iii. Claims 2-5, 13-24, 26-29

Regarding claims 2-5, 13-16, and 26-29, the Examiner asserts that Ehlers teaches initiating an editing mode within the controller, and while in the editing mode, modifying at least one schedule parameter of the schedule, wherein the schedule review mode must be exited

before the editing mode is initiated. The Examiner points to the same above-quoted passages of Ehlers et al. for support. As can clearly be seen, the above-quoted passages of Ehlers et al. do not teach anything regarding a specific method step of exiting a schedule review mode before initiating an editing mode. In fact, and as detailed above, the cited passages of Ehlers et al. would appear to clearly teach providing a thermostat that allows a user to simultaneously view and change thermostat settings. As such, Ehlers et al. clearly do not teach each and every element in the same detail as is recited in the claims and thus cannot be deemed to anticipate the claims.

iv. Claims 25, 30-33, 39, 40

Regarding independent claims 25, and 39, the Examiner asserts that Ehlers et al. discloses a programmable controller including a user interface, a processor configured to run a scheduling routine for modifying a schedule, where the scheduling routine includes a separate schedule review mode and editing mode, and where the schedule review mode is configured to permit the user to display one or more schedule parameters on the user interface without allowing the user to modify at least one of the schedule parameters without first initiating the editing mode. Appellants respectfully disagree. The Examiner again points to the same above-quoted passages of Ehlers et al. for support. As detailed above, however, the above-quoted passages of Ehlers et al. clearly do not teach anything regarding a scheduling routine, and more specifically, a scheduling routine that includes a separate schedule review mode and editing mode, or a schedule review mode configured to permit the user to display one or more schedule parameters on the user interface without allowing the user to modify at least one of the schedule parameters without first initiating the editing mode.

Notably, the Examiner has not separately addressed independent claim 40. Appellants submit that claim 40 is allowable over Ehlers et al. for at least the reasons as set forth above with respect to claim 1. In particular, Ehlers et al. do not teach a computer program that when executed by a controller performs the specifically claimed method steps of initiating a schedule review mode within a controller, wherein the schedule review mode permits a user to manually select and view one or more schedule parameters of interest but does not permit a user to modify

the selected and viewed schedule parameter(s) without first exiting the schedule review mode and entering an editing mode, and exiting the schedule review mode. As such, Ehlers et al. clearly do not teach each and every element in the same detail as is recited in the claims and thus cannot be deemed to anticipate the claims.

B. Claims 34-37 are patentable under 35 U.S.C. §103(a) over Ehlers et al. (U.S. Patent No. 7,130,719) in view of Smith (U.S. Patent No. 6,192,282).

i. *Claims 34-37*

Claims 34-37 are rejected as being unpatentable over Ehlers et al. and further in view of Smith (US 6,192,282). The Examiner acknowledges that Ehlers et al. fails to disclose a controller for a security, lightning, sprinkler or A/V system, but asserts that it would have been obvious to implement a review mode for the Ehlers application controller according to the Smith patent. As detailed above, Ehlers does not teach or suggest the basic elements of independent claim 25, from which claims 34-37 depend. The Smith patent does not teach what Ehlers et al. lacks. Thus, even if one were to combine the references, one would not arrive at the claimed invention.

C. Conclusion.

For the reasons stated above, the rejection of claims 1-33 and 38-40 under 35 U.S.C. §102(e), and the rejection of claims 34-37 under 35 U.S.C. § 103(a), should both be reversed.

Respectfully Submitted,

Dated: November 13, 2007

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VIII. CLAIMS APPENDIX

1. A method of accessing a schedule on a controller coupled to a user interface, comprising the steps of:

initiating a schedule review mode within the controller, said schedule review mode permitting viewing access only and not permitting editing access to at least one schedule parameter in the schedule,

while in the schedule review mode, manually selecting via the user interface one or more schedule parameters;

in response to the manually selecting step, displaying the one or more manually selected schedule parameters via the user interface; and

exiting the schedule review mode.

2. The method of claim 1, further comprising the steps of:

initiating an editing mode within the controller; and

while in the editing mode, modifying at least one schedule parameter of the schedule, wherein the schedule review mode must be exited before the editing mode is initiated.

3. The method of claim 2, wherein the step of initiating the schedule review mode occurs prior to the step of initiating the editing mode.

4. The method of claim 1, wherein said schedule includes at least two time periods, with one or more schedule parameters corresponding to each of the at least two time period, at least one of the time periods corresponding to a wake period, a leave period, a return period, or a sleep period.

5. The method of claim 1, wherein said one or more schedule parameters is selected from the group consisting of an event time parameter, a heat set point parameter, a cool set point parameter, a fan mode parameter, and a humidity level parameter.

6. The method of claim 1, wherein the user interface comprises a touch screen.

7. The method of claim 1, wherein the user interface comprises a display panel and keypad.

8. The method of claim 1, wherein the user interface is a menu-driven interface.

9. The method of claim 1, wherein said schedule is a heating schedule.

10. The method of claim 1, wherein said schedule is a cooling schedule.

11. The method of claim 1, wherein said schedule is a venting schedule.

12. The method of claim 1, wherein said controller is an HVAC controller.

13. A method of accessing and programming a schedule on a controller equipped with a user interface, wherein the schedule has one or more programmable schedule parameters, the method comprising the steps of:

providing a scheduling routine within the controller, the scheduling routine including a schedule review mode separate from an editing mode;

initiating the schedule review mode within the controller, wherein while in the schedule review mode, a user is not permitted to make changes via the user interface to at least some of the schedule parameters;

while in the schedule review mode, allowing the user to select and view a desired schedule parameter via the user interface;

initiating the editing mode within the controller;

modifying at least one schedule parameter in the schedule; and

exiting the scheduling routine.

14. The method of claim 13, further including the step of exiting the schedule review mode prior to the step of initiating the editing mode.

15. The method of claim 13, wherein said schedule includes at least two time periods, with one or more schedule parameters corresponding to each of the at least two time period, at least one of the time periods corresponding to a wake period, a leave period, a return period, or a sleep period.

16. The method of claim 13, wherein said one or more schedule parameters is selected from the group consisting of an event time parameter, a heat set point parameter, a cool set point parameter, a fan mode parameter, and a humidity level parameter.

17. The method of claim 13, wherein the user interface comprises a touch screen.

18. The method of claim 13, wherein the user interface comprises a display panel and keypad.

19. The method of claim 13, wherein the user interface is a menu-driven interface.

20. The method of claim 13, wherein said schedule is a heating schedule.

21. The method of claim 13, wherein said schedule is a cooling schedule.

22. The method of claim 13, wherein said schedule is a venting schedule.

23. The method of claim 13, wherein said controller is an HVAC controller.

24. The method of claim 13, wherein said one or more schedule parameters are un-modifiable in the schedule review mode.

25. A programmable controller for use in controlling a system, the controller comprising:

a user interface; and

a processor configured to run a scheduling routine for modifying a schedule, the scheduling routine including a schedule review mode and a separate editing mode;

wherein the schedule review mode is configured to permit a user to manually select and display one or more selected schedule parameters via the user interface and to not permit the user to modify at least one of the one or more selected schedule parameters without first initiating the editing mode.

26. The controller of claim 25, wherein the schedule review mode is initiated before the editing mode, and the schedule review mode must be exited prior to initiating the editing mode.

27. The controller of claim 25, wherein said schedule includes one or more time periods.

28. The controller of claim 27, wherein said one or more time periods correspond to a wake period, a leave period, a return period, and/or a sleep period.

29. The method of claim 25, wherein said one or more schedule parameters is selected from the group consisting of an event time parameter, a heat set point parameter, a cool set point parameter, a fan mode parameter, and a humidity level parameter.

30. The controller of claim 25, wherein the user interface comprises a touch screen.

31. The controller of claim 25, wherein the user interface comprises a display panel and keypad.

32. The controller of claim 25, wherein the user interface is a menu-driven interface.

33. The controller of claim 25, wherein said system is an HVAC system.

34. The controller of claim 25, wherein said system is a security system.

35. The controller of claim 25, wherein said system is a lighting system.

36. The controller of claim 25, wherein said system is a sprinkler or drip water system.

37. The controller of claim 25, wherein said system is an A/V system.

38. The controller of claim 25, wherein said one or more schedule parameters are un-modifiable in the schedule review mode.

39. A programmable controller for use in controlling a system, the controller comprising:

a user interface; and

a processor configured to run a scheduling routine for modifying a schedule, the scheduling routine including a schedule review mode and a separate editing mode;

wherein the schedule review mode is configured such that when in the schedule review mode, a user is permitted to manually select and view one or more schedule parameters of interest but is not permitted to modify the selected and viewed schedule parameter(s).

40. A computer readable medium having stored thereon a computer program that when executed by a controller performs the steps of:

initiating a schedule review mode within a controller, wherein the schedule review mode permits a user to manually select and view one or more schedule parameters of interest but does not permit a user to modify the selected and viewed schedule parameter(s) without first exiting the schedule review mode and entering an editing mode; and

exiting the schedule review mode.

IX. EVIDENCE APPENDIX

No additional evidence has been presented.

X. RELATED PROCEEDINGS APPENDIX

There are no related appeals or interferences.